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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,058	10/13/2005	Karl-Heinz Hassel	090402-9462	8376
23409 7590 10/22/2007 MICHAEL BEST & FRIEDRICH LLP 100 E WISCONSIN AVENUE Suite 3300 MILWAUKEE, WI 53202			EXAMINER TAPOLCAI, WILLIAM E	
			ART UNIT 3744	PAPER NUMBER
			MAIL DATE 10/22/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/537,058

Applicant(s)

HASSEL ET AL.

Examiner

William E. Tapolcai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20050602</u> . | 6) <input type="checkbox"/> Other: ____. |

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1. Applicant's Information Disclosure Statement has been considered, and an initialed copy is being enclosed with this Office action. Reference citation 2002/073723 to Hoos is lined out because the citation is incorrect. It should be 2002/0073723. It is also being cited on the form PTO-892.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-3, 5, 8-13, 17, and 18 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 6,763,670 to Bushnell et al. Bushnell et al discloses a rooftop air conditioner system for a bus in which the air conditioner system has a modular construction. See especially Figs. 9A-9D.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 14-16, 19-21, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bushnell et al. Bushnell et al discloses the claimed invention except for the shape of the tubes, the hinged connections of the modular sections, the switching valve for feeding either outside or return air, and the supercritical mode of operation. All of these elements are considered to be matters of obvious choice to one

of ordinary skill in the art. The flat tubes of the heat exchanger are considered to be well known. Also, the hinged connection of the modular sections is considered to be a matter of obvious choice, as hinged connections per se are well known. The switching valve for feeding either outside or return air to the air conditioner is a well known feature in air conditioners for vehicles. Finally, it is well known to operate an air conditioner in a supercritical mode using CO₂ as the refrigerant.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bushnell et al in view of U.S. Patent No. 7,051,544 to Hille et al. Bushnell et al discloses the claimed invention except for the heating device. Hille et al teaches a rooftop air conditioner with a heating device 24. Thus, it would be obvious to provide Bushnell et al with a heating device, in view of Hille et al, with the predictable result that heat can be supplied to the passenger compartment whenever needed or desired.

7. Claims 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bushnell et al in view of U.S. Patent No. 6,742,343 to Matanog et al. Bushnell et al discloses the claimed invention except for the fuel cell. Matanog et al teaches a rooftop air conditioner device which includes a fuel cell 100. See especially column 3, lines 38-50. Thus, it would be obvious to operate the air conditioner device of Bushnell et al by a fuel cell, in view of Matanog et al, with the predictable result that a separate power supply can be provided for the air conditioner.

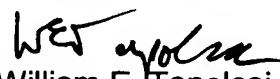
8. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (571) 272-4814. The examiner can normally be reached on Mon. - Thurs., 6:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


William E. Tapolcai
Primary Examiner
Art Unit 3744

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October 16, 2007